

Sep 04 2020

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of California

United States of America

v.

JOHN DOE

Case No. **CR 20-71268-MAG**

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 19, 2020 in the county of Santa Clara in the
Northern District of California, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 1344(2)

Bank Fraud

This criminal complaint is based on these facts:

Please see attached affidavit of FBI Special Agent Michael Tomeno.

☒ Continued on the attached sheet.

Approved as to form Scott Simeon
AUSA Scott Simeon

/s/ Michael Tomeno

Complainant's signature

FBI Special Agent Michael Tomeno

Printed name and title

Sworn to before me over the telephone and signed
by me pursuant to Fed.R.Crim.P 4.1 and 4(d)

Date: September 3, 2020

Virginia K. DeMarchi
Judge's signature

City and state: San Jose, California

Virginia K. DeMarchi, U.S. Magistrate Judge

Printed name and title

Print

Save As...

Attach

Reset

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Michael Tomeno, Special Agent with the Federal Bureau of Investigation (“FBI”), being duly sworn, hereby declare as follows:

Introduction and Agent Background

1. This affidavit is presented in support of a criminal complaint charging JOHN DOE (“DOE”), also known as R.V. and M.S., with a violation of Title 18, United States Code, Section 1344(2) – Bank Fraud.

2. I am an “investigative or law enforcement officer of the United States” within the meaning of Section 2510(7) of Title 18, United States Code, that is, an officer of the United States who is empowered by law to conduct investigations, to execute search warrants, and to make arrests for offenses of Federal law. I have been employed as a Special Agent with the FBI since January 2019 and am currently assigned to the San Francisco Division.

3. The facts set forth in this affidavit are based upon my training and experience; my personal knowledge of this investigation; my review of documents and records related to this investigation; my review of public information; information provided by victims; and information provided to me by other agents and law enforcement officials who have assisted in this investigation and have experience investigating wire fraud and other complex financial crimes. Since this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that violations of United States law occurred.

Relevant Entities

4. At all times relevant to this complaint:

a. eBay, Inc. (“eBay”) is a multinational e-commerce corporation headquartered in San Jose, California, that facilitates consumer-to-consumer and business-to-consumer sales through its website. The eBay Motors site is a part of eBay’s platform, and facilitates consumer-to-consumer and business-to-consumer sale of automobiles. According to *Forbes*, eBay Motors processed \$14 billion worth of vehicles and parts in 2009.

1 did not deliver the advertised vehicle after it was sold. Instead, the victim-buyer wired payment to the
2 “seller,” but received nothing in return.

3 8. The various fraudulent advertisements are linked to a single scheme to defraud by
4 common identifying information such as the domain of the seller’s email address, phone numbers, the
5 Internet Protocol (IP) address used in posting the advertisement, and the language used in the
6 advertisements and associated communications to victim-buyers. The primary commonality in this case
7 is the individual who received the payment wired by the victim-buyers: JOHN DOE.

8 9. In furtherance of this scheme to defraud, DOE used 7 different aliases to open 21
9 different bank accounts in the names of those false identities. DOE provided fraudulent information
10 such as fake names and personal information on documents used to set up and access these bank
11 accounts. FBI agents identified DOE as the same individual who opened and accessed each of these
12 bank accounts by comparing photos and video footage of these various identities. Agents matched DOE
13 to each of these identities through scanned copies of the passports he used as proof of identity during the
14 creation of each account, as well as bank surveillance footage, which shows DOE accessing different
15 accounts using different identities. Below is an example of DOE using false identification to open and
16 access one of the bank accounts.

17 a. On or about August 11, 2020, a bank account was opened at Wells Fargo in
18 Mountain View, California, under the name R.V. using Czech Republic Passport Number ****9068,
19 date of birth ** **, 1990. The account did not have any other individuals listed that were authorized to
20 access the account. Between August 12 and August 17, 2020, a total of \$40,000 was wired to this
21 account from three different individuals. Between August 12 and August 20, 2020, DOE withdrew

22 //

23 //

24 //

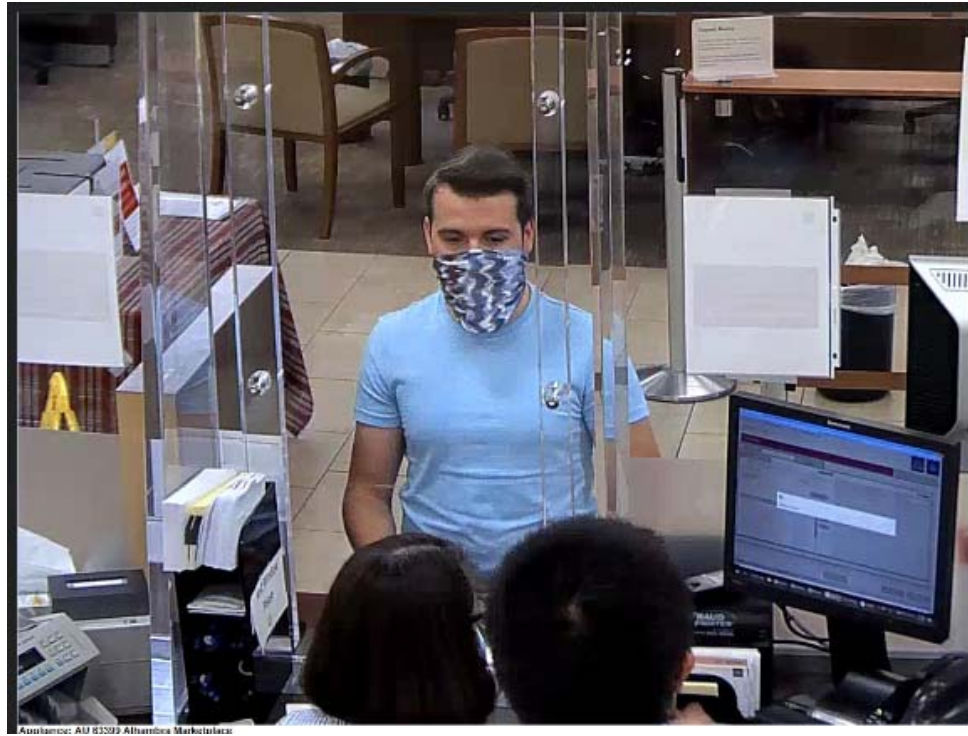
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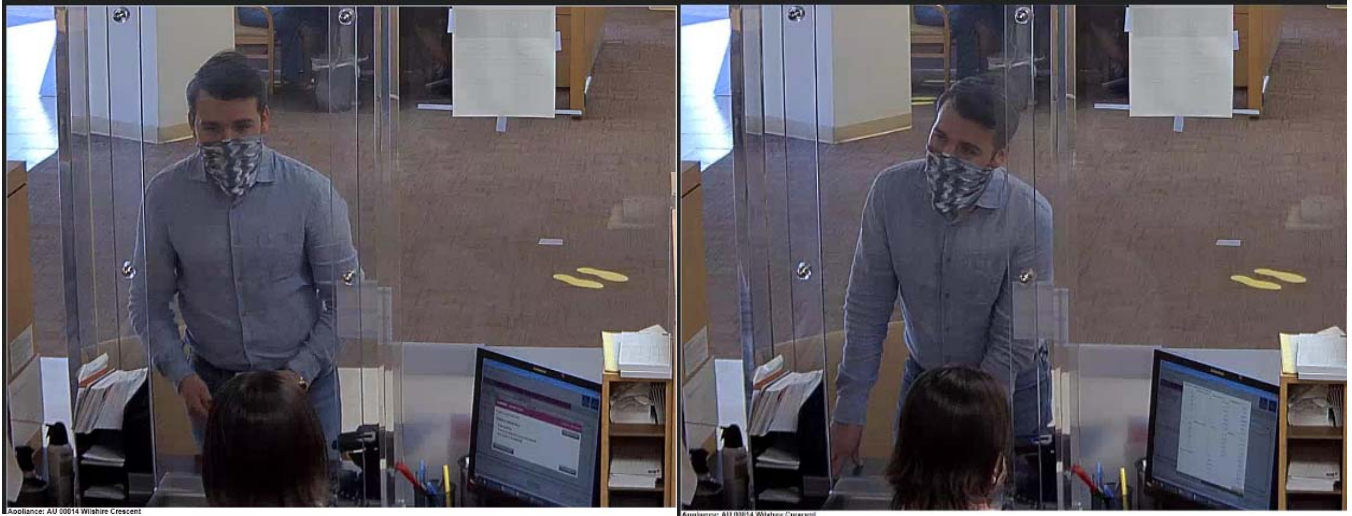
1 approximately \$40,000 from the account using the alias R.V. This picture was captured of DOE
2 accessing the account on August 14, 2020:



15
16 b. This picture was captured of DOE accessing the account on August 17, 2020:



c. These pictures were captured of DOE accessing the account on August 18, 2020:



10. In each instance in the scheme to defraud, shortly after the winner of an auction wired funds to a bank account, typically within days, DOE would withdraw the funds. Since May 2019, DOE has obtained at least \$382,496 in large wire transfers. These funds were either withdrawn by DOE or frozen by the bank due to suspicious activity. Even after certain bank accounts were frozen or closed, DOE continued to open and access new bank accounts. In contrast to activity typically observed in bank accounts used for legitimate personal or business purposes, all bank accounts opened by DOE had minimal activity other than the receipt of large wire transfers and large cash withdrawals. Also outside the norm, all 21 accounts were active for less than 12 months. This is all consistent with the activities of a money mule, and it appears that DOE set up the bank accounts with the sole purpose of acting as a money mule, and that approximately \$382,496 deposited into these bank accounts was sent by victims of the aforementioned fraudulent scheme. In every instance, DOE applied for a bank account or withdrew money from the bank under false pretenses.

August 19, 2020

11. On or about August 12, 2020, a bank account was opened at Wells Fargo in Santa Clara, California, under the name M.S. using Czech Republic Passport Number ****6182 and date of birth **, 1992. The account did not have any other individuals listed that were authorized to access the account.

12. On August 18, 2020, \$12,600 was wired to this account from another person. Between August 18 and August 21, 2020, DOE withdrew \$12,154.80 from the account using the alias M.S. These transactions included an August 19, 2020 withdrawal of \$11,780. These pictures were captured of DOE accessing the account on August 19, 2020:



Conclusion

13. Based upon the foregoing evidence, my training and experience, and the training and experience of agents and investigators involved in this investigation, there is probable cause to believe that JOHN DOE has violated 18 U.S.C. § 1344(2) – Bank Fraud. Accordingly, I respectfully request that the Court issue a criminal complaint and a warrant to arrest DOE.

Request for Sealing

14. I respectfully request that the Court issue an order sealing, until further order of the Court, the criminal complaint, arrest warrant, and all papers submitted in support of the complaint and arrest warrant, including this affidavit. I believe that disclosure at this time would seriously jeopardize the investigation and would allow DOE to change patterns of behavior, destroy evidence, or flee from prosecution. Accordingly, I believe that sealing is necessary to effectuate the orderly arrest of DOE and to guard against flight and destruction of evidence.

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1 I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

2
3 /s/ Michael Tomeno

4 MICHAEL TOMENO

5 Special Agent

6 Federal Bureau of Investigation

7 Sworn to before me over the telephone and signed by me pursuant to Fed. R. Crim. P. 4.1 and 4(d) on
8 this 3d day of September 2020.

9 
10 HON. VIRGINIA K. DEMARCHI
11 United States Magistrate Judge

SEALED BY ORDER OF THE COURT

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☒ COMPLAINT ☐ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

18 U.S.C. § 1344(2) – Bank Fraud

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

 PENALTY: Maximum Prison Term: 30 years
 Maximum Fine: \$1,000,000 fine
 Maximum Term of Supervised Release: 5 years
 Mandatory Special Assessment: \$100

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

DEFENDANT - U.S.

▶ JOHN DOE

DISTRICT COURT NUMBER

CR 20-71268-MAG**FILED**

Sep 04 2020

 SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE
PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI Special Agent Michael Tomeno

☐ person is awaiting trial in another Federal or State Court,
 give name of court

☐ this person/proceeding is transferred from another district
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of
 charges previously dismissed
 which were dismissed on motion
 of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.
☐ this prosecution relates to a
 pending case involving this same
 defendant
MAGISTRATE
CASE NO.
☐ prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
 defendant were recorded under

 Name and Office of Person
 Furnishing Information on this form David L. Anderson

☒ U.S. Attorney ☐ Other U.S. Agency

 Name of Assistant U.S.
 Attorney (if assigned) Scott Simeon
DEFENDANT**IS NOT IN CUSTODY**
 1) ☒ Has not been arrested, pending outcome this proceeding.
 If not detained give date any prior
 summons was served on above charges ▶
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes
 been filed? ☐ No

 If "Yes"
 give date
 filed
**DATE OF
ARREST**

Month/Day/Year

Or... if Arresting Agency & Warrant were not

**DATE TRANSFERRED
TO U.S. CUSTODY**

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: No

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

 * Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment

Date/Time: Before Judge:

Comments: